

Remarks

Claims 1-10 are pending.

The Examiner repeated substantially the same rejection of Claims 1-8 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,766,524 (“Matheny”) set forth in the Office Action of October 4, 2005.

In response to the previous rejection, Applicant explained in the submission of December 19, 2005 that Applicant’s Specification teaches that commercial interruptions during broadcast reduce both the viewers’ viewing pleasure and the effectiveness of the advertising. Therefore, Applicant’s Claims 1-8 each recite a method that allows the broadcast to be shown without commercial interruption, while still allowing the commercial sponsors to capture the attention of their intended audience. For example, Claim 1 recites:

1. A method for allowing content to be broadcast without commercial interruption, yet letting the company or companies sponsoring the broadcast to offer purchasing incentives to viewers, the method comprising:

a. receiving a broadcast with embedded information about the broadcast, said embedded information being provided to allow constructing a viewing record of the broadcast;

b. extracting and displaying content from said broadcast without commercial interruption to a viewer;

c. extracting said embedded information from said broadcast;

d. storing said embedded information;

e. at a predetermined time, sending said stored embedded information and viewer information to

a remote computer to allow said remote computer to construct said viewing record; and

f. providing specific incentives to the viewer based on said viewing record.

Applicant also pointed out, in contrast to Applicant's claimed invention, not only does Matheny not disclose or suggest Applicant's Claims 1-8, Matheny teaches away from Claims 1-8. Specifically, Matheny teaches not only commercial interruptions, but a particularly intrusive type of commercial interruptions – i.e., one which requires the viewer to interact with it in order to receive a reward:

For illustrative purposes, receiver 215 depicts a broadcast television commercial sponsored by a cruise line and advertising an Alaskan cruise. In accordance with the invention, television set 235 additionally displays a reward notice 260--in this case an interactive icon--alerting viewers of the possibility of receiving a reward for watching the depicted commercial. In one embodiment, viewers select reward notice 260 to participate in the interactive commercial.

* * *

The possibility of receiving a reward will entice some viewers to claim rewards without bothering to watch the associated commercial. Thus, in accordance with one embodiment of the invention, viewers must provide some feedback to indicate that they watched the commercial before they are entitled to a reward. In the example of FIG. 2, set-top box 245 presents the viewer with a test question 265 at or near the end to the commercial. The question is based upon the content of the commercial, so viewers who watch the commercial are able to answer the question correctly. ... Entering the correct answer in field 270 entitles a viewer to the offered reward.

(Matheny, at col. 3, lines 1-30)

Applicant thus concluded that, because Matheny teaches away from Claims 1-8, Claims 1-8 are each allowable over Matheny. In response to Applicant's arguments, in the

Final Office Action of March 27, 2006, the Examiner states:

... The system of Metheny may be used in conjunction with commercial, but the presence of commercials is not required. Assuming arguendo that commercials are present in the broadcasting, the system is operable after the end of the first commercial and before the end of the second commercial. Therefore, for the specified broadcast segment, content from the broadcast is extracted and displayed without commercial interruption, while maintaining the complete functionality of the system.

Applicant respectfully submits that the Examiner is in error. First, Applicant assumes that the Examiner meant to say "... the system is operable after the end of the first commercial and before the *beginning* of the second commercial." If that is not correct, Applicant respectfully requests the Examiner to further clarify his arguments, as they are not understood.

In this rejection, the Examiner has construed Matheny's "reward" and "query" trigger messages as the "embedded information being provided to allow constructing a viewing record of the broadcast" recited in Claim 1. However, as taught in Matheny's col. 6, lines 47-54, these triggers interrupt the viewer by "[displaying] some icon (step 415), or otherwise notifies viewers of the possibilities of receiving a reward for interacting with the program." As these triggers constitute a message of a commercial nature from a program sponsor, the triggers themselves meet the "commercial interruptions" limitations recited in Claim 1. Thus, a broadcast embedded with Metheny's trigger does not meet Claim 1's "extracting and displaying content from said broadcast without commercial interruption to a viewer" limitation.

Further, the Examiner's contention that the program segment between the triggers is

shown “without commercial interruptions” -- thus meeting the “extracting ...” limitation – is contradictory to his construction regarding the triggers being the requisite “embedded information.” This is because, to meet the “embedded information” limitation, the Examiner has to construe the reward and query triggers as the “embedded information” in the broadcast. However, the Examiner’s contention excludes these triggers from the program segment. These constructions are mutually exclusive. Accordingly, Applicant respectfully submits that the Examiner fails to show that Metheny anticipates Applicant’s Claims 1-8.

The Examiner also repeated his previous rejection of Claims 9-10 under 35 U.S.C. § 103(a) as being unpatentable over Matheny. Applicant respectfully traverses the Examiner’s rejection. Claims 9 and 10 each recite broadcast without commercial interruption:

9. A method for allowing content to be broadcast without commercial interruption, yet letting the company or companies sponsoring the broadcast to offer purchasing incentives to viewers, the method comprising:

- a. receiving information from a remote viewer representing a viewing record of said broadcast without commercial interruption by said remote viewer;

* * *

- d. sending said Web page to said viewer.

10. A method for allowing content to be broadcast without commercial interruption, yet letting the company or companies sponsoring the broadcast to offer purchasing incentives to viewers, the method comprising:

- a. receiving information about viewing of content of a broadcast without commercial interruption by a remote viewer;

* * *

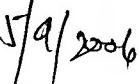
e. sending said Web page to said viewer.

For the reasons explained above, Matheny teaches away from Applicant's invention by teaching embedded interactive commercials during broadcast and including commercial interruptions. Accordingly, Claims 9-10 are each allowable over Matheny. Reconsideration and allowance are therefore requested.

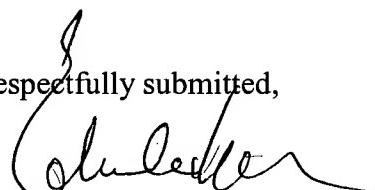
For the reasons set forth above, all claims (i.e., Claims 1-10) are allowable, and their allowance is requested. If the Examiner has any question regarding the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant at 408-392-9250.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 9, 2006.

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 Date of Signature

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